

Title	<i>Civil Docketing Statement for Statewide Use in the Courts of Appeal</i> (adopt form APP-001; amend Cal. Rules of Court, rule 1).
Summary	The proposed form would serve as a civil docketing statement for mandatory statewide use in the California Courts of Appeal, to simplify and make more uniform the practice of filing civil appeals and to facilitate an early determination of appealability. The proposed amendment to rule 1 of the California Rules of Court would require the appellant in a civil appeal to file the new form in the Court of Appeal within 10 days of filing the notice of appeal in the superior court.
Source	Appellate Advisory Committee Justice Joyce L. Kennard, Chair
Staff	Heather Anderson, Committee Counsel, 415-865-7691 heather.anderson@jud.ca.gov
Discussion	<p>Three of the six appellate districts of the Court of Appeal require the appellant to file a form docketing statement in all civil appeals. The proposed form APP-001, <i>Civil Docketing Statement</i> is a composite of the forms currently used by these courts. It attempts to capture the best features of each, while calling for all the information the various districts find useful at a very early stage of appellate proceedings.</p> <p><i>Genesis of the proposed form</i></p> <p>The form developed by the First Appellate District, known there as a “Docketing Statement for Civil Notice of Appeal,” is the most comprehensive of the local forms in current use. It focuses on prompt identification of issues of timeliness and appealability but also requires information about appellate case history (including any writ proceedings), related cases, and the method of record designation selected by the appellant. The appellant to a civil appeal in the First Appellate District is also required to provide detailed information about each of the parties and attorneys who will participate in the appeal. By local rule, the appellant is required to file the form, a copy of the order or judgment from which the appeal is taken, and a proof of service on all parties to the appeal.</p> <p>The form required in the Second Appellate District, referred to there as a “Case Information Statement (Civil Appeals),” calls for information about appealability and related cases but also asks the appellant to identify the general subject matter of the case and any calendar</p>

preference to which it might be entitled. As in the First Appellate District, the appellant is required to precisely identify the order or judgment from which the appeal is taken and to attach a copy of that document. In addition, the Second Appellate District form asks for information about any bankruptcy proceedings affecting the appeal. The Second Appellate District form calls for information about the parties and attorneys who will be involved in the appeal but does not provide a separate page or blanks for that purpose. Of special note is the fact that the form required in the Second Appellate District is based on the form that was recommended for statewide use by the Appellate Process Task Force.

The form used in the Fourth Appellate District is similar in appearance to that used in the Second Appellate District and includes many of the same questions asked in the other forms. However, it is less exhaustive.

Form APP-001 (attached at pages 4–6) would require the appellant to provide information in each of the categories currently covered on the form of at least one appellate district. Although the proposed form appears to be longer than any of the existing forms, the information called for is almost identical to that currently required by the Second Appellate District. The additional (third) page merely provides a uniform format for obtaining the party and attorney information required by both the First and Second Appellate Districts.

NOTE: Because the proposed form attempts to be all-inclusive, comment is specially invited on any category of information the commentator believes is unnecessary or unduly burdensome to provide. Commentators are also asked to identify any *additional* information that should be required.

Filing requirement

The proposed amendments to rule 1 would require appellants to file a docketing statement in the form prescribed by the Judicial Council within 10 days after filing the notice of appeal and would provide for sanctions for the failure to file this statement.

In the Second and Fourth Appellate Districts, the appellant is required by local rule to file the local form docketing statement within 10 days after the clerk of those courts mails a copy of the form to the appellant. The First Appellate District requires that its form be filed in that court within 10 days after the notice of appeal is filed in the superior court.

Presumably, the rule in the Second and Fourth Appellate Districts contemplates that an appellant might be unaware until notified by the clerk of the requirement to file the local form or might have difficulty locating a copy. However, a Judicial Council form adopted for mandatory statewide use should be more accessible, both in the volumes of forms printed by various publishers, on the California Courts Web site (www.courtinfo.ca.gov), and on other Web sites that provide forms to California litigants with or without charge. The parties would also have more effective notice of the requirement to file the docketing statement if it were required by the California Rules of Court in every civil appeal in every appellate district. Thus, the Appellate Advisory Committee believes it would be reasonable and appropriate to follow the First Appellate District's approach to obtaining docket information as early as possible in the appellate process.

Sanctions

The proposed amendments to rule 1 (attached at page 4) would also require the clerk to provide notice of a failure to file the docketing statement and would authorize the imposition of sanctions, including dismissal of the appeal, for the failure to file the docketing statement within 15 days after the clerk's notice. All of the districts that currently require the filing of a docketing statement provide by local rule for the imposition of sanctions if the appellant fails to file the required statement after being notified by the clerk.

Attachments

Effective January 1, 2003, rule 1 of the California Rules of Court would be amended to read:

Rule 1. Taking the appeal

(a)—(e) * * *

(f) Civil docketing statement

(1) Within 10 days after filing the notice of appeal, an appellant must serve and file in the reviewing court a docketing statement on the form prescribed by the Judicial Council, attaching a copy of the judgment or appealed order that shows the date it was entered.

(2) If the docketing statement is not filed as required by (f)(1), the reviewing court clerk must notify the appellant in writing that unless the appellant files the docketing statement within 15 days after the clerk's notice is sent, the Court of Appeal will impose monetary sanctions or dismiss the appeal. If the appellant fails to comply with the notice, the court may impose the sanctions specified in the notice.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h1 style="text-align: center;">DRAFT-3</h1>
CASE TITLE:	
SUPERIOR COURT: County:	
JUDGES (all who participated in case):	SUPERIOR COURT CASE NUMBER:
<h3 style="text-align: center;">CIVIL DOCKETING STATEMENT</h3> COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number (if known):
<p>NOTE TO APPELLANT: You must file this form with the clerk of the Court of Appeal within 10 days after you file the notice of appeal. Attach to this form (1) a copy of the judgment or appealed order that shows the date it was entered, and (2) proof of service of this form on all parties to the appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2), or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).</p>	

PART I – APPEAL INFORMATION

A. APPEALABILITY

1. Appeal is from:

- ☐ Judgment after jury trial
☐ Judgment after court trial
☐ Default judgment
☐ Judgment after an order granting a summary judgment motion.
☐ Judgment of dismissal under Code Civ. Proc., §§ 581d, 583.250, 583.360, or 583.430
☐ Judgment of dismissal after an order sustaining a demurrer.
☐ An order after judgment under Code Civ. Proc., § 904.1(a)(2)
☐ An order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13)
☐ Other (describe and specify code section that authorizes this appeal):

2. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

☐ Yes ☐ No

If not, please explain why the judgment is appealable:

B. TIMELINESS OF APPEAL (Provide all applicable dates)

1. Date of entry of judgment or order appealed from: ____/____/____
 2. Date that notice of entry of judgment or a copy of the judgment was mailed by clerk or served by a party under Cal. Rules of Court, rule 2: ____/____/____
 3. Date that notice of entry of order denying a motion under Cal. Rules of Court, rule 3, or a copy of the order was mailed by clerk or served by a party: ____/____/____
 4. Date notice of ☐ appeal or ☐ cross-appeal filed: ____/____/____

CASE TITLE:	SUPERIOR COURT CASE NUMBER:
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C. APPELLATE CASE HISTORY *(Provide additional information, if necessary, on attachment I.C.)*

Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court? ☐ Yes ☐ No

If yes, insert name of appellate court:

Appellate court case No.:

Title of case:

Name of trial court:

Trial court case No.:

D. RECORD DESIGNATION *(Information is required to monitor record preparation under Cal. Rules of Court, rule 77.)*

1. ☐ Notice ☐ designating clerk's transcript under Cal. Rules of Court, rule 5 or ☐ electing to proceed by appendix under rule 5.1 was filed on ____/____/____.
2. ☐ Notice designating reporter's transcript under Cal. Rules of Court, rule 4 was filed on ____/____/____.
3. ☐ Stipulation to use superior court file under Cal. Rules of Court, rule 5.2, was filed on ____/____/____.
4. ☐ A reporter's transcript was previously prepared and will be substituted under Cal. Rules of Court, rule 4(b)(3).
5. ☐ No reporter's transcript will be designated.
6. ☐ Agreed statement or stipulation to use agreed statement under Cal. Rules of Court, rule 6, was filed ____/____/____.
7. ☐ Motion to proceed by settled statement under Cal. Rules of Court, rule 7, was filed on ____/____/____.
8. ☐ Notice designating parts of a prior appellate record for incorporation by reference under Cal. Rules of Court, rule 10(b), was filed on ____/____/____. Prior appellate record is contained in Court of Appeal case number _____, in the Court of Appeal, _____ Appellate District.
9. ☐ Record designation is pending *(please explain)*:

E. BANKRUPTCY OR OTHER STAY

☐ Related bankruptcy case or a court-ordered stay affects this appeal. *(Attach a copy of the petition and any documentation relating to the stay.)*

PART II – NATURE OF ACTION

A. Nature of action *(check all that apply)*:

1. ☐ Conservatorship
2. ☐ Contract
3. ☐ Eminent domain
4. ☐ Equitable action
 - a. ☐ Declaratory relief
 - b. ☐ Other *(describe)*:
5. ☐ Family law
6. ☐ Guardianship
7. ☐ Probate
8. ☐ Real property rights
 - a. ☐ Title of real property
 - b. ☐ Other *(describe)*:
9. ☐ Tort
 - a. ☐ Medical malpractice
 - b. ☐ Product liability
 - c. ☐ Other personal injury
 - d. ☐ Personal property
 - e. ☐ Other tort *(describe)*:
10. ☐ Trust proceedings
11. ☐ Unfair competition (Bus. & Prof. Code, § 17200)
12. ☐ Writ proceedings in Superior Court
 - a. ☐ Mandate (Code Civ. Proc., § 1085)
 - b. ☐ Administrative mandate (Code Civ. Proc. § 1094.5)
 - c. ☐ Prohibition (Code Civ. Proc., § 1102)
 - d. ☐ Other *(describe)*:
13. ☐ Other action *(describe)*:

If this box is checked, refer to rule 15(e)(2), Cal. Rules of Court

B. ☐ This appeal is entitled to calendar preference/priority on appeal *(cite authority)*:

CASE TITLE:	SUPERIOR COURT CASE NUMBER:
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PART III – PARTY AND ATTORNEY INFORMATION
(List only the parties and attorneys who will participate in the appeal)

A. PARTY INFORMATION (Appellant) *(Provide information about additional appellants, if necessary, in attachment III.A.)*

1. Name(s) of Appellant(s):

2. Trial Court Party Designation: In the trial court, appellant(s) in this appeal had the following designation(s):
☐ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant ☐ Objector
☐ Claimant ☐ Petitioner ☐ Respondent ☐ Real Party in Interest
☐ Other (specify):

B. ATTORNEY INFORMATION (Appellant) *(Provide additional information, if necessary, in attachment III.B.)*

1. Attorney Name(s):
2. State Bar Number(s):
3. Mailing Address:
4. Telephone Number:
5. Fax Number:
6. E-mail Address:

C. ASSOCIATE ATTORNEY INFORMATION (Appellant) *(Provide additional information, if necessary, in attachment III.C.)*

1. Attorney Name(s):
2. State Bar Number(s):
3. Mailing Address:
4. Telephone Number:
5. Fax Number:
6. E-mail Address:

D. PARTY INFORMATION (Respondent) *(Provide information about additional respondents, if necessary, in attachment III.D.)*

1. Name(s) of Respondent(s):

2. Trial Court Party Designation: In the trial court, respondent(s) in this appeal had the following designation(s):
☐ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant ☐ Objector
☐ Claimant ☐ Petitioner ☐ Respondent ☐ Real Party in Interest
☐ Other (specify):

E. ATTORNEY INFORMATION (Respondent) *(Provide additional information, if necessary, in attachment III.E.)*

1. Attorney Name(s):
2. State Bar Number(s):
3. Mailing Address:
4. Telephone Number:
5. Fax Number:
6. E-mail Address:

F. ASSOCIATE ATTORNEY INFORMATION (Respondent) *(Provide additional information, if necessary, in attachment III.F.)*

1. Attorney Name(s):
2. State Bar Number(s):
3. Mailing Address:
4. Telephone Number:
5. Fax Number:
6. E-mail Address:

This Statement is prepared and submitted by:

Signature

Relation to Appellant